

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

<p>GARY LIN, individually and on behalf of all others similarly situated,</p> <p>Plaintiff,</p> <p>v.</p> <p>CRAIN COMMUNICATIONS INC.,</p> <p>Defendant.</p>	<p>Case No. 2:19-cv-11889-VAR-APP</p> <p>PLAINTIFF'S RESPONSE TO ORDER TO SHOW CAUSE</p>
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Plaintiff Gary Lin, individually and on behalf of all others similarly situated, submits this response to the Court's Order for Plaintiff to Show Cause entered on July 8, 2019 (ECF No. 5 (the "OSC").

On June 25, 2019, Plaintiff initiated this action with a Class Action Complaint ("Complaint" or "Compl."), which invoked the Court's original subject-matter jurisdiction pursuant to the Class Action Fairness Act of 2005 ("CAFA"), 28 U.S.C. § 1332(d) (Compl. ¶ 15). In the Complaint, Plaintiff, a citizen of Virginia (*id.* ¶ 13), brings claims against Defendant, a citizen of both Michigan (*id.* ¶ 14) and Delaware (as alleged in the operative First Amended Class Action Complaint, discussed below), for violation of Michigan's Preservation of Personal Privacy Act and unjust enrichment, on behalf of himself and over 100 other similarly-situated individuals, at least one of whom is a citizen of a state different from Defendant (*id.* ¶ 15).

Plaintiff seeks individual and class-wide damages that exceed \$5,000,000 in the aggregate for each of his two claims, among other forms of relief (*id.* ¶¶ 15, 88, 101; *see also id.* at 36 (“Prayer for Relief” section of Complaint)).

On July 8, 2019, the Court issued the OSC, ordering Plaintiff to show cause by July 12, 2019 why this action should not be dismissed for lack of subject-matter jurisdiction pursuant to Federal Rule of Civil Procedure 12(h)(3). (ECF No. 5 at 2 (“Because Plaintiff fails to properly allege the citizenship of Defendant, he has not established that complete diversity exists under § 1332.”).)

On July 11, 2019, together with the instant response to the OSC, Plaintiff filed the operative First Amended Class Action Complaint (ECF No. 6 (the “FAC”)) pursuant to Federal Rule of Civil Procedure 15(a)(1)(A). The FAC contains the following revised allegations concerning Defendant’s citizenship:

Defendant Crain Communications Inc. is a multi-industry publishing conglomerate. Crain is incorporated in Delaware and maintains its corporate headquarters and principal place of business at 1155 Gratiot Ave, Detroit, Michigan 48207-2732. Crain publishes several nationally-circulated publications, including *Autoweek*, *Automotive News*, *Advertising Age*, *Modern Healthcare*, *Crain’s Cleveland Business*, *Crain’s Chicago Business*, *Crain’s Detroit Business*, *Investment News*, *Pensions & Investments*, *Plastics News*, *Tire Business*, and *Plastics News*, among several others. Crain does business throughout Michigan and the United States.

(FAC ¶ 14 (emphasis added); *compare id.* with Compl. ¶ 14.)

Thus, the FAC specifically alleges Defendant’s states of incorporation and principal place of business (FAC ¶ 14), each of which is different from the state of

citizenship of at least one member of the proposed nationwide class defined in the FAC (including Plaintiff, a citizen of Virginia) (*see* FAC ¶ 15). Accordingly, the parties' citizenship is sufficiently diverse to support the Court's exercise of original subject-matter jurisdiction pursuant to CAFA. *See* 28 U.S.C. § 1332(d)(2)(A).¹

Dated: July 12, 2019

Respectfully submitted,

GARY LIN,

By: /s Frank S. Hedin
One of Plaintiff's Attorneys

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¹ CAFA's amount-in-controversy requirement, *see id.* § 1332(d)(2), is also satisfied by the allegations of the FAC. (*See* FAC ¶ 15 (alleging that the damages suffered by the proposed class exceed \$5 million in the aggregate).)

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